

requests that the attached terminal disclaimer be accepted and the double patenting rejection be withdrawn.

In the office action, claims 1, 3-20 and 26 are rejected under 35 U.S.C. §112, first paragraph, because the specification is said not to enable a "regulatory element" as broadly claimed. Applicants have amended the claims 1 and 26 to more specifically define the term "regulatory element". As defined in the specification from page 17, line 16 to page 18, line 27, regulatory elements for use with the invention control gene expression. Not only promoters, but as described in the specification, e.g., splicing, polyadenylation, termination signals, etc. are known to serve as elements that regulate gene expression. Applicants have amended the claims to more specifically define the regulatory element and one that controls gene expression on the second nucleic acid construct. Applicant, therefore, respectfully requests that the rejection of claims 1, 3-20 and 26 under 35 U.S.C. §112, first paragraph be withdrawn.

Claims 3-5 are rejected under 35 U.S.C. §112, second paragraph as being indefinite. Claims 3-5 are said to involve a fusion peptide as part of the construct. Applicant's have amended the claims to correct the error. Support will be found in the specification at, e.g., page 15, ll.13-15 wherein the purpose of the nucleic acid of interest is defined. Additional support may be found on page 20, ll. 23-30. Applicant, therefore, respectfully requests that the rejection of claims 3-5 under 35 U.S.C. §112, second paragraph be withdrawn.

CONCLUSION

Applicant respectfully submits that no fees are due. If this is incorrect, the Commissioner is hereby authorized to charge any fees which may be required by this paper to Deposit Account 07-

0153. Accordingly, a favorable action in the form of an early notice of allowance is respectfully requested. The examiner is requested to call the undersigned for any reason that would advance the instant application to issue.

Dated this the 18th day of November, 1999.

Respectfully submitted:

A handwritten signature in cursive script, appearing to read 'Edwin Flores', is written over a horizontal line.

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